

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 29, 2008

Charles R. Fulbruge III
Clerk

No. 07-40033
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CHARLES L MALONE

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:06-CR-1-1

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Charles L. Malone has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Malone has filed a response, which includes claims of ineffective assistance of counsel. The record is insufficiently developed to allow consideration at this time of Malone's claims of ineffective assistance of counsel. See *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006). Our independent review of the record, counsel's brief, and Malone's response

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

discloses no nonfrivolous issue for appeal. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. See 5TH CIR. R. 42.2. To the extent Malone moves to proceed pro se on appeal, his motion is DENIED. See *United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).